

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Hegli, et al.
App. No : 10/616,420
Filed : July 8, 2003
For : SYSTEM AND METHOD FOR
CONTROLLING ACCESS TO
INTERNET SITES
Examiner : Douglas B. Blair
Art Unit : 2142

DECLARATION UNDER 37 C.F.R. § 1.131

Assistant Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

1. This declaration is provided to establish invention priority of the above-captioned U.S. Patent Application.
2. During the time period in which we participated in the events and activities described herein, we were employed by Websense, Inc., the assignee of the above-captioned application.
3. All of the events and activities described herein were performed by us personally, or by others at our direction as part of our duties as employees of Websense, Inc.
4. We are the inventors of the described subject matter and all claims in the above-captioned U.S. Patent Application Serial No. 10/616,420 ("the '420 patent application"), filed July 8, 2003, titled "SYSTEM AND METHOD FOR CONTROLLING ACCESS TO INTERNET SITES," which is a continuation of U.S. Patent Number 6,606,659 ("the parent application"), issued August 12, 2003 and was filed January 28, 2000. The parent application discloses subject matter that provides support for the claims of the above-referenced application.

5. Prior to September 30, 1999, I and/or my co-inventors ("we") had conceived of the invention in this country, as described and claimed in the '420 patent application, and

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diligently worked with our patent counsel to prepare the parent application, including during the critical period between September 30, 1999 and January 28, 2000, as evidenced by the following events:

- a. Prior to September 30, 1999, while working at Websense, Inc., (www.websense.com) we determined that there was a need for more friendly screening of websites visited by employees during work hours while also controlling the impact of reduced productivity by the employees due to visiting the websites during work hours.
- b. We carried out development and testing of software including that described in the '420 patent application. We tested the software described in the '420 patent application for use in a version of Websense's software. Attached to our declaration as **Exhibit 1** is a document titled "Websense After-Work Edition, 1st Version." That document was prepared contemporaneously with the development of the "Websense After-Work Edition, 1st Version" and was completed prior to September 30, 1999. "Websense After-Work Edition, 1st Version" describes in section 3.1 a "Quota System" feature which is the subject of the claims in the '420 patent as set forth below.
- c. On October 22, 1999, we met with Mr. Fuller, an attorney at the law firm Knobbe, Martens, Olson and Bear, to disclose the document "Websense After-Work Edition, 1st Version."
- d. On October 26, 1999, we received a letter from Mr. Fuller which briefly outlined the scope of the patent application and its associated costs. **Exhibit 2** is a copy of the letter from Mr. Fuller.
- e. After internal review and discussion of the content of the document "Websense After-Work Edition, 1st Version" and the letter from Mr. Fuller, we directed Mr. Fuller to proceed with preparation of the parent patent application.

6. To our knowledge, the application was filed on January 28, 2000.

7. We hereby declare that all of my acts leading to the filing of the parent patent application were performed in the United States.

We declare that all statements made herein of our own knowledge are true and that all statements made on information or belief are believed to be true, and further that these statements were made with the knowledge that willful, false statements and the like so made are punishable

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by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and
that such willful, false statements may jeopardize the validity of the application or any patent
resulting therefrom.

Dated: 7/30/09

By: John Carrington
John Carrington

Dated: _____

By: _____
Ronald Hegli

Dated: _____

By: _____
David Oei

6503104

EXHIBIT 1

WEBSENSE After-Work Edition, 1st Version**After-Work Feature List****Document History:**

| | |
|--------------|--|
| 6 July 1999 | [DAO] first draft |
| 8 July 1999 | [DAO] redefined essential backend server requirements (2.2.1 and 2.2.3), redefined Introduction (1.0), removed category requirement from screening message (2.1.2 and 2.1.3), added a new backend feature (2.2.5), replaced optional feature (3.2.8) |
| 9 July 1999 | [JBC] [DAO] redefined Introduction (1.0), restated messages (2.1.2, 2.1.3), added domain name options (2.2), added clarification (2.2.1.b) (2.2.4) (2.2.5), and expanded scope of optional requirements (3.2.1,2,3,5,10) |
| 19 July 1999 | [DAO] added flexible requirement for creating bookmarks of good URLs (3.1.2), added Terry's logging requirements (2.3). |
| 26 July 1999 | [DAO] changed to "Save or Continue" (2.1.2), added logging provisions (2.3) |

1.0 Websense After-Work, an Introduction

The addition of the Websense After-Work feature set serves several functions, but most importantly, After-Work turns an employee's web-surfing experience into a more productive and friendlier one. In a nutshell, After-Work will add several levels of "friendlier" screening (on top of blocking and not blocking), as well as the ability to save and retrieve URLs from our backend server. Websense After-Work must not be thought of as being a portal, rather, it is more like an Employee's Virtual Bookmark with exciting reasons to return each day. The ultimate goal is to create a virtual, trusted, employee private site that is focused on balancing work and personal life.

The Websense After-Work feature must be as benign, painless, and friendly as possible. This means, personalized greetings, "thank-you's", and "welcomes". After-Work must appear to be as non-threatening as possible to IS Managers, while easy and friendly to user for employees.

2.0 The After-Work Feature Set: The Bare Necessities

This section will focus on the minimal essential feature set required to create the first incarnation of After-Work. If After-Work is implemented in Websense v.3.2, the After-Work preferences will apply globally, across all Websense users. Otherwise, if After-Work is implemented in Websense v.4.0, the preferences will apply on a per-profile (user or group) basis. Additionally, please use the following nomenclature – if you disagree with it or have alternative suggestions, please let me know.

2.1 After-Work > "Friendlier Screening"

Currently, with Websense v.3.x, two levels of screening exist per category – they are, permit and deny. However, within the *WEBSENSE* After-Work Edition, there are four choices per database category. They are:

1. **"Permit".** As the name implies, URLs in this category are not blocked by Websense. Political sites may fall under this category.
2. **"Save or Continue".** Given this choice, the user will get a web page with the text, "Our company would appreciate it if you would view this site 'After Work'. Click Save to store for later viewing or Continue to view now. What would you like to do? [Continue] [Save]". Travel sites may fall under this category (since travel *may* be work related). See 2.2.3 for information relating to what users see after clicking [Save].
3. **"Save Only".** Unlike "Continue and Save", here the user will only get the option to save the URL for later viewing - the user will not get the option to continue surfing. The text supplied to the user will state, "This may only be viewed After Work, Click Save to store for later viewing." Shopping sites may fall under this category. See 2.2.3 for information relating to what users see after clicking [Save].
4. **"Block".** As the name implies, URLs in this category will be blocked with no option to continue or save. Pornographic sites may fall under this category.

Example: If User X goes to <http://www.amazon.com> (which is listed under Shopping) and the administrator has "Continue or Save" set as the screening option for the Shopping category, instead of being presented with a Blocked Message, the user will get a web page allowing for uninterrupted (by selecting "Continue") or deferred (by selecting "Save") surfing. By selecting "Continue", User X continues to web surf like normal. By selecting "Save", that URL will get saved onto our backend Websense-managed web site, which User X can access at a more appropriate time.

2.2 After-Work > The Backend Server (may be, my.websense.com, www.websense.com

websense.afterwork.com, www.afterwork.com, or other domain name)

After saving a URL to our backend server (for example, http://afterwork.websense.com), a user can navigate back to it after work hours (from work or home). Thus, the backend server must:

1. Register New Users

The registration process must be as benign and as easy to use as possible. This means, that initially we are to gather the least amount of information necessary while still allowing a new user to access their bookmarks after work. Here is what should be implemented to abide by those requirements:

a. *New Users – Easy Registration*

Upon clicking [Save] for the first time, the backend server will put a cookie, containing a unique identifier, on the user's computer all the while saving the URL. Unless at some later point that user officially registers with our backend server by providing at least a unique username and e-mail address (password will be optional) that cookie's unique identifier will be used to authenticate the user to the backend server for future requests. The page which gets returned after they click [Save] will display a thank you, a reminder to check back later, the backend server WWW address, and, if they have not officially registered with our backend server (see point 'b' below), an option to officially register so that the user can access the URL list from home.

b. *New Users – Official Registration*

When a user clicks on the official registration link from the post-[Save] page, they will get redirected to a page on our backend server requesting username, password (optional, that is, it will be optional for the user to supply a password), and e-mail address information (home and/or office). Without doubt, the amount of information we want to collect will expand with time, but the above are the requirements for now. There will be an option to save this registration information on a cookie so that they will not have to enter it every time. Thus, after a user officially registers, they will be allowed to access the backend server either transparently (via the cookie), or using username/password authentication. If a user authenticates to our backend server and our cookie does not already exist on that user's machine, we will put one there.

2. Authenticate existing users with a username and password (optional), or just a cookie

See point 1 - Registration - above.

3. Save URLs from Websense clients (employees)

After a non-new user clicks [Save], they will get redirected to a web page displaying a thank you, a reminder to check back later, the backend server WWW address, and, if they have not officially registered with our backend server (see section '2.2.1.b' above), an option to officially register so that the user can access the URL list from home.

4. Allow Websense clients to retrieve, delete and modify saved URLs

www.mybookmarks.com provides a very good example of this. Our goal will be, over time, to develop a much more robust bookmark metaphor and personal site.

5. Send Email Reminders

If a user has officially registered with our backend server and selected a box indicating that they wish to receive automated reminders, the backend server will send out a "reminder" email message to that user at some to-be-determined time (5:00pm local?). The message may say something like, "Remember to check back at http://afterwork.websense.com. You have 10 Entertainment, and 3 Vehicle sites saved at this time." We may also want to include instructions on how to add the AfterWork site in the Favorites list of their Internet browser.

2.3 After-Work > Logging

Each new screening disposition will be logged as such:

When the user clicks "Save Only" the disposition should be "Blocked – Save only"

When the user clicks "Continue", the disposition should be "Blocked - Continue"

When the user clicks "Save", the disposition should be "Blocked - Save"

TBD: Terry will determine what will get logged if a user gets a "Save Only" or a "Save or Continue" page but does not actually use those After-Work functions.

3.0 The After-Work Feature Set: The Bells and the Whistles

The second incarnation of After-Work will improve upon the first by adding a greater degree of "friendlier" screening, and a greater set of features in the backend server. The second incarnation adds, but does not replace the functionality and feature set as outlined in Section 2.0.

3.1 After-Work > "Friendlier Screening"

The first incarnation of After-Work allows for four levels of screening to include "permit", "continue or save", "save only", and "deny". The second will introduce a new choice set:

1. **"Quota System"**. If a database category is screened under the "quota system", the user will be allowed to browse that category until the quota has been reached. The quota can be based on:
 - a. **Time**. Allows for X minutes of surfing per category per time period or v.4.0 profile.
 - b. **Gets**. Allows for Y number of HTTP GET requests per category per time period or profile.
 - c. **Bandwidth**. Allows for Z number of bytes per category per time period or profile.
 Aside from specifying which quota system to use and the quantity of web access to allow, the administrator will also need to indicate which level of screening ("permit", "continue or save", "save only", or "deny") Websense will use once the quota has been reached.
2. **"Friendly Bookmarks"**. If this screen disposition is selected, the feature will allow users to automatically bookmark a site onto our backend server. Engineering may use either or both of the following implementations: 1) Each page returned to the user will be a frame, whereby the bottom 50 pixels will be reserved by a Websense "Save" button, and the rest will contain the intended destination web content; 2) We will create some sort of a plug-in for the Internet Explorer and Netscape browsers which will appear as a Websense "Save" button on the browser's toolbar (This is the preferred method).

Example: With the time-based quota system, an administrator can allow unrestricted access to "Shopping" for 30 minutes a day. If the user attempts to access a Shopping site after the 30 minute quota has been reached, and if the administrator has indicated "save only" as the post-quota screening option, that user will still be able to save the URL for later viewing at <http://afterwork.websense.com>.

3.2 After-Work > The Backend Server (<http://afterwork.websense.com>)

After the release date, afterwork.websense.com should provide the following features:

1. Give substantial discounts to clients when buying from Internet vendor partners (like Amazon.com) during the After Work periods. For example, if User X jumped to one of our Internet vendor partners, User X would get a discount of any product they purchased from that site, and Websense would obtain a fee or percentage from that sale.
2. Allow for viewing all these URL bookmarks in "Category Mode". In Category Mode, we display all Websense database categories that have been Saved and corresponding user-entered URLs under each category.

Example:

Stocks

- www.etrade.com
- www.ameritrade.com

Shopping

- www.amazon.com

3. The following sites contain the type of things we can use in After Work. We may copy their work, buy them, or partner with them in some way. These are: <http://www.visto.com>, <http://www.when.com>
4. Either provide free e-mail, a direct link to a free e-mail site (such as www.hotmail.com), or the ability to download work mail (if via POP3, this is easy). The user should be able to customize this.
5. We will be paid by advertisers/suppliers to bring up alternative URLs.
6. Distribute news, weather, movie times, stocks, etc... from companies which provide this – we will charge these companies a fee.
7. Work with our upgraded database (which will contain extra fields to provide greater granularity – example, add the word "tire" to a new "keyword" field for "www.goodyear.com") and the statistics afterwork.websense.com will generate to provide daily or weekly statistics for news agencies (like USA Today). Examples include, "4 out of 5 computer programmers shop at Amazon.com when they buy books."
8. We will also store addresses, phone numbers, notes, etc... (a virtual Palm Pilot? – see www.visto.com)
9. We can track which URLs everybody is using for their bookmarks, use logical induction to conclude that the most commonly held bookmarks are the most useful, suggest these bookmarks to others, and publish them in USA Today.

10. We will display money generating ad banners with a high CPM \$100+ (charge per thousand eyeball pairs)

EXHIBIT 2

INTELLECTUAL PROPERTY LAW

KNOBBE, MARTENS, OLSON & BEAR

A LIMITED LIABILITY PARTNERSHIP INCLUDING
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October 26, 1999

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Mr. Ron Hegli
 Vice President of Engineering
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 10240 Sorrento Valley Road
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Re: Estimate for new patent application.

Dear Ron:

It was good to see you again last week. At that meeting you requested that we begin to prepare a new patent application as discussed below. I have found it helpful in the past to provide written estimates for any new projects I begin in order to avoid miscommunications between your company and this firm. The following is a brief description of the patent application you have requested us to draft, along with an estimate of the professional fees for preparing the application.

1.) Title: System for Managing Access to the Internet

This invention relates to a system for managing user access to the Internet. Included in the system is a database of "blocked" sites. In the past, when a user attempted to access such sites, a message was returned indicating that the site could not be accessed. This invention allows greater flexibility by providing selective access to blocked sites under predetermined circumstances. For example, a quota system allows users access to a blocked site a particular number of times per day, but no more than the set quota. In another aspect of the system, a user is presented with a warning screen that indicates that their access to the blocked site will be allowed, but only with their understanding that it will be logged by the system.

Our estimate for the legal fees for preparing this patent application is \$8000.00 - \$10,000.00.

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* A PROFESSIONAL CORPORATION
 ** ALSO BARRISTER AT LAW (U.K.)

** U.S. PATENT AGENT

WEBSENSE, INC.

October 26, 1999

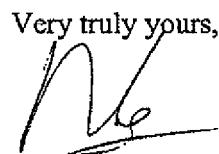
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The aforementioned legal fees are estimates for professional services only, and are based on my current understanding of the scope of work necessary to complete these applications. Of course, if the scope of work changes due to new requirements or disclosures, these additional costs are not included in the original estimates. In addition, these estimates do not include the governmental filing fees of approximately \$400.00 or draftsman fees for preparing figures for each application which typically cost between \$250.00 and \$1000.00, depending on the complexity of the figures.

As we discussed, in the United States there is a one-year grace period for filing patent applications after they have been disclosed to the public. However, most foreign countries do not provide any such grace period. You mentioned that your company may be interested in foreign patent protection for this invention, and current plans are to launch this product on the Internet on approximately December 1, 1999. Accordingly, in order to preserve patent rights abroad, we will need to have an application on file in the United States prior to any public disclosure, including your December 1, 1999 launch on the Internet. Of course, if your company plans to publicly disclose any aspects of the invention before December, or the date of your launch changes, please notify us as soon as possible.

Of course, if you have any questions or concerns, please do not hesitate to contact me. I look forward to speaking with you soon.

Very truly yours,



Michael L. Fuller

cc: AnneMarie Kaiser, Esq.
Richard E. Campbell, Esq.
Alan Weiss, Websense, Inc.